THE HON'BLE Ms. JUSTICE G. ROHINI

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WRIT PETITION NO.11842 OF 2005

Dated : 14th December, 2005.

Between:

The LAM Labour Contract Co-operative

Society Ltd., LAM (Regd.No.1/1996) rep. by

Its President Sri Avutupalle Shaida,

S/o. Madar Saheb, aged 54 years,

R/o. LAM Village, Tadikonda Mandal,

Guntur District.

… Petitioner

And

1. The Assistant Registrar/ Establishment,

O/o. Divisional Co-operative Officer,

Guntur and three others. … Respondents

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ORDER :

The petitioner is a Labour Contract Co-operative Society formed for the benefit of the quarry workers. It is stated that there are 371 members in the petitioner society whose main source of livelihood is quarrying. It is also stated that the petitioner society takes the quarries on lease from the Department of Mines and Geology and provides work to its members and the society is functioning for the past about 10 years. The area of the petitioner society is mainly in LAM village of Tadikonda Mandal, Guntur District. While so, under the impugned order dated 13-5-2005 the

2nd respondent – Deputy Registrar of Co-operative Societies, Kannavarithota, Guntur registered the 4th respondent society and issued a certificate of registration under Section 8 of the A.P. Co-operative Societies Act, 1964 (for short, 'the Act').

The petitioner alleges that the registration of the fourth respondent society is not in conformity with the provisions of the Act and in violation of the co-operative movement. The petitioner further alleges that the fourth respondent society is registered in collusion with its members and resulting in drastically reducing the area of operation of the petitioner society thereby affecting the livelihood of the members of the petitioner society. Hence, this writ petition.

The 2nd respondent filed a counter-affidavit stating that the members of the fourth respondent society who belong to Scheduled Caste approached the petitioner society seeking admission into the said society, but the same was refused. In the circumstances, the fourth respondent society submitted a representation to the Deputy Registrar of Co-operative Societies, Guntur duly furnishing the requirement and requested to register the said society under the provisions of A.P. Co-operative Societies Act VII of 1964. In pursuance thereof, the 1st respondent was instructed to submit his feasibility report after examining the contents of the representation. The 1st respondent, having visited Lam village, verified the contents, convened a meeting and submitted his feasibility report to organize separate society for the Harijan Community, who are eking their livelihood by metal quarrying. On the abovesaid report, the 2nd respondent registered the fourth respondent society on 13-5-2005. The said action of the second respondent is in accordance with the statutory provisions and it does not warrant any interference.

The fourth respondent filed a separate counter-affidavit on the same lines denying the allegation that by registration of the fourth respondent society the area of operation of the petitioner society has been reduced.

I have heard the learned Counsel for both the parties and perused the material on record.

It is to be noted that Section 6 of the A.P. Co-operative Societies Act, 1964 (for short, 'the Act') provides for registration of a society. Under Sub-section (1) of Section 6 of the Act an application for the registration of a society shall be made to the Registrar in the form prescribed. Under Sub-Section (4) of Section 6 of the Act if the Registrar is satisfied that the application conforms to the requirements laid down by the Act and the Rules and that the objects of the society seeking registration are in accordance with Section 4 of the Act and that such society is likely to be economically sound and that its registration may not have an adverse effect on the development of the of the Co-operative movement, he may register the society and its bye-laws. Thus, it cannot be disputed that the Registrar is the competent authority to register a society, however subject to compliance with the provisions of Sub-section (4) of Section 6 of the Act.

In the case on hand, the specific case of the petitioner is that by virtue of the registration of the fourth respondent society, the petitioner society would be rendered economically unviable and it would adversely affect the development of the co-operative movement and the second respondent failed to take into consideration the said aspects while registering the 4th respondent society. It is contended that before registering the society, the 2nd respondent ought to have afforded an opportunity to the petitioner society which is an existing society to raise its objections, if any, against the registration of the fourth respondent society.

It is to be noted that in the counter-affidavit, it has categorically stated that having received the representation of the fourth respondent society, the second respondent has called for a feasibility report from the first respondent. Accordingly, the 1st respondent – Assistant Registrar of Co-operative Societies having conducted due enquiry and after convening a meeting submitted a feasibility report and on the basis of the same the fourth respondent society has been registered. In the circumstances, the allegation of the petitioner that by virtue of registration of the fourth respondent

society, the petitioner society will be adversely affected and the same would reduce the area of the operation of the petitioner society does not appear to be correct.

It is also relevant to note that under Section 76 of the Act an efficacious alternative remedy of appeal is provided against the order made under Section 6 of the Act. Without exhausting the said efficacious alternative remedy of appeal, the petitioner cannot maintain this writ petition. Particularly in view several disputed questions of fact involved, I am of the opinion that the petitioner ought to have availed the remedy of appeal for redressal of its grievance. That apart, under Section 9-B of the Act, it is always open to the Registrar to deregister the society if in his opinion the society is conducting its affairs in contravention of the Cooperative principles or in violation of the provisions of the Act, rules and bye-laws made thereunder.

In the circumstances, I am of the opinion that if the petitioner disputes the report submitted by the 1st respondent – Assistant Registrar of Co-operative Societies and contends that the fourth respondent society encroaches into the area of the operation of the petitioner society thereby adversely affecting the livelihood of the members of the petitioner society, it is always open to it to work out the remedy of appeal as provided under the statute and the matter does not deserve enquiry by this Court in exercise of jurisdiction under Article 226 of the Constitution of India. It is made clear that this Court shall not be understood to have expressed any opinion as to the rival claims made by the parties and in the event of the petitioner preferring an appeal under Section 76 of the Act within a period of four weeks from today, the same shall be entertained and appropriate orders be passed in accordance with law.

Accordingly, granting leave and liberty to the petitioner to work out the alternative remedy of appeal as provided under the Statute, the Writ Petition is disposed of. No costs.

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G. ROHINI, J.

Dt: 14-12-2005.

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